

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MISSOURI
Springfield**

Case No. 10-20086-abf7
Chapter 7

**MOTION FOR RELIEF FROM AUTOMATIC STAY AND
MEMORANDUM IN SUPPORT THEREOF**

COMES NOW, BAC Home Loans Servicing, LP f/k/a Countrywide Home Loans Servicing, LP, its subsidiaries, affiliates, predecessors in interest, successors, and assigns ("Creditor"), by and through its attorneys Steven M. Leigh, Carrie D. Mermis, and the law firm of Martin, Leigh, Laws & Fritzlen, P.C., and in support of its Motion for Relief From Automatic Stay states as follows:

1. On or about January 21, 2009, Marty E. Box and Tammy J. Box ("Debtors") executed and delivered to Taylor, Bean & Whitaker Mortgage Corp. a Note ("Note") in the original principal amount of \$164,836.00.
2. The Note is secured by a properly recorded Deed of Trust dated January 21, 2009. The Deed of Trust was executed and delivered by Debtors to Taylor, Bean & Whitaker Mortgage Corp. securing the following property:

BEGINNING AT A POINT 30 FEET WEST OF THE NORTHEAST CORNER OF THE SOUTHEAST ONE-FOURTH OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 37, RANGE 23, ON THE WEST RIGHT OF WAY LINE OF STATE ROUTE (B), THENCE SOUTH ALONG SAID RIGHT OF WAY LINE 83.7 FEET, THENCE NORTH 87 DEGREES 20 MINUTES WEST 170.9 FEET TO THE EAST RIGHT OF WAY LINE OF EXISTING COUNTY ROAD, THENCE NORTH 2 DEGREES 24 MINUTES EAST ALONG SAID ROAD 75.4 FEET TO THE NORTH LINE OF SAID SE 1/4 NE 1/4, THENCE SOUTH 89 DEGREES 41 MINUTES EAST ALONG SAID NORTH LINE OF SE 1/4 NE 1/4, 167.6 FEET TO THE POINT OF BEGINNING.

ALSO: A PART OF THE NORTHEAST ONE-FOURTH OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 37 NORTH, RANGE 23 WEST OF THE FIFTH PRINCIPAL MERIDIAN, DESCRIBED AS: BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER ON THE WEST RIGHT OF WAY LINE OF STATE HIGHWAY ROUTE (B), THENCE WEST ALONG SAID FORTY ABOUT 176 FEET TO THE EAST RIGHT OF WAY LINE OF THE OLD PUBLIC ROAD, THENCE IN A NORTHEASTERLY DIRECTION ALONG THE EAST RIGHT OF WAY OF SAID PUBLIC ROAD A DISTANCE OF 7 CHAINS 71 LINKS, THENCE EAST 65 LINKS TO THE WEST RIGHT OF WAY LINE OF SAID HIGHWAY (B), THENCE SOUTH TO THE POINT OF BEGINNING. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

The above-described property is also known as RT 1 Box 1128, Wheatland, MO 65779 ("Property"). A true and correct copy of the Deed of Trust is attached hereto as Exhibit A and incorporated herein by this reference.

3. Creditor is now the holder of the Note and Deed of Trust.
4. Debtor filed for relief under Chapter 7 of the United States Bankruptcy Code on January 20, 2010.
5. Per Debtors' Chapter 7 Statement of Intention, Debtors intend to surrender the Property listed in Paragraph 2 above.
6. The principal balance of the Note is \$164,118.85. The payoff amount is \$175,475.46.
7. Creditor's best estimate of the value of the Property is \$175,000.00 per Debtors' schedules. The value is equal to or lower than the total claim now due, therefore, showing little or no equity above the claim and the Property is not necessary for reorganization 11 U.S.C. §362 (d)(2).
8. Cause exists to grant relief from the automatic stay as Debtors have not offered Creditor adequate protection of its interest in the Property. 11 U.S.C. §362(d)(1).
9. Creditor requests that any order modifying the stay be effective immediately as allowed under Federal Bankruptcy Rule 4001(a)(3).

WHEREFORE, for the foregoing reasons, Creditor respectfully requests that this Court enter an Order Granting Relief From the Automatic Stay to enable Creditor to exercise any and all rights provided under non-bankruptcy law under the Note and Deed of Trust granting it an interest in the Property, that upon entry of an Order Granting Relief that the Property be deemed abandoned by the Chapter 7 Trustee as an asset of the bankruptcy estate, that any order modifying the stay be effective immediately as allowed under Federal Bankruptcy Rule 4001(a)(3), and for such other and further relief as is just and appropriate under the circumstances.

Respectfully submitted,

MARTIN, LEIGH, LAWS & FRITZLEN, P.C.

s/Steven M. Leigh

Steven M. Leigh, #29268, sml@mllfpc.com

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1044 Main Street, Suite 900

Kansas City, MO 64105

Telephone: (816) 221-1430

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ATTORNEYS FOR CREDITOR

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on this 24th day of February, 2010, a true and correct copy of the above and forgoing was served electronically and/or deposited in the United States Mail, postage prepaid, addressed to the following:

Kenneth P. Reynolds
Reynolds, Gold & Grosser
1240 E. Independence St.
Suite 200
Springfield, MO 65804

Thomas J O'Neal
Ch. 7 Trustee
901 St. Louis St., #1200
Springfield, MO 65806

Office of the U.S. Trustee
400 E. 9th Street, Suite 3440
Kansas City, MO 64106

s/Steven M. Leigh
Attorney for Creditor

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MISSOURI
Springfield**

In re:

**MARTY EUGENE BOX
TAMMY JEAN BOX**

Debtors,

**Case No. 10-20086-abf7
Chapter 7**

**BAC HOME LOANS SERVICING, LP F/K/A
COUNTRYWIDE HOME LOANS SERVICING, LP**

Creditor.

SUMMARY OF EXHIBITS AND CERTIFICATE OF SERVICE

The following exhibits in reference to the Motion for Relief From Automatic Stay are available upon request:

A. Deed of Trust

Respectfully submitted,

MARTIN, LEIGH, LAWS & FRITZLEN, P.C.

s/Steven M. Leigh

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ATTORNEYS FOR CREDITOR

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on this 24th day of February, 2010, a true and correct copy of the above and foregoing, Summary of Exhibits and Certificate of Service, was served electronically and/or deposited in the United States Mail, postage prepaid, addressed to the following:

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s/Steven M. Leigh
Attorney for Creditor